

## **Notice of Proposed Action**

### **Title 10: Bureau of Real Estate Appraisers**

NOTICE IS HEREBY GIVEN that the Bureau of Real Estate Appraisers ("Bureau") is proposing to take the action described in the informative digest below. Any interested person may present statements or arguments relevant to the action proposed, orally or in writing, at a hearing to be held at:

Department of Consumer Affairs  
1747 North Market Blvd.  
1<sup>st</sup> Floor Hearing Room 186  
Sacramento, CA 95834

Date: June 14, 2019

Time: 1:00 p.m.

Written comments including those sent by mail, facsimile, or email to the address listed under "Contact Person" in this Notice, must be received by the Bureau at its office not later than 5:00 p.m. on June 13, 2019 or must be received by the Bureau at the hearing.

The Bureau, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by Sections 11313, 11343, 11350, 11352, 11400, 11401, 11404, 11405, 11406, 11406.5, 11408, and 11422, Business and Professions Code, and Section 17520 of the Family Code, and to implement, interpret and make specific Sections 11350, 11401, 11404, 11406, and 11406.5 of the Business and Professions Code, the Bureau is considering revising Section 3582 of Title 10 of the California Code of Regulations as described in this Notice.

### **INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW**

In 1996, California Code of Regulations section (CCR) 3582 became effective and established most of the Bureau's fees.<sup>1</sup> In 2000, the Bureau amended CCR 3582 to update the application and issuance fees. In Fiscal Year 2006-07, the licensed appraiser population peaked at 20,080

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<sup>1</sup> Business and Professions Code section 11313 allows the Bureau to adopt regulations as determined reasonably necessary to carry out the purpose of the Real Estate Appraisers' Licensing and Certification Law.

licensed appraisers. Due to the number of appraisers licensed, the Bureau's beginning fund balance peaked in 2008-09 to approximately \$18.7 million. Over a span of several years, surplus funds were borrowed by the general fund beginning in 2003 and returned to the Bureau through payments plus interest.

In 2006, the Bureau temporarily reduced issuance fees with CCR 3583. Surplus funds were not sufficiently reduced when CCR 3583 expired in 2014, so the Bureau continued with the reduction until July 1, 2018, to effectively eliminate the surplus. Now, the number of licensed appraisers is about half of what it was at the peak. As a result, revenue from license fees has decreased by about half. Repayments from the general fund will also cease after this fiscal year. The Bureau implemented cost-saving measures, but will need to increase fees to ensure the Bureau can continue to meet its statutory obligation of public protection. The Bureau is a self-funded program seeking to maintain a reserve of six months to manage through the fluctuations of the licensee and registrant population.

The following describes the increases in costs and other events that have led to the Bureau's need to increase fees.

- **Personnel Costs**

Personnel Costs (salary and benefits) have increased by approximately 64 percent since 2000-01 as depicted in the table below. This increase is not unique to the Bureau as personnel costs are rising for all state agencies.

Year <sup>2</sup>	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08
<b>Salaries</b>	<b>\$1,771</b>	<b>\$1,331</b>	<b>\$1,164</b>	<b>\$1,229</b>	<b>\$1,268</b>	<b>\$1,317</b>	<b>\$1,447</b>	<b>\$1,631</b>
<b>Benefits</b>	<b>\$323</b>	<b>\$291</b>	<b>\$315</b>	<b>\$387</b>	<b>\$425</b>	<b>\$429</b>	<b>\$470</b>	<b>\$466</b>

Year	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
<b>Salaries</b>	<b>\$1,581</b>	<b>\$1,634</b>	<b>\$1,705</b>	<b>\$1,969</b>	<b>\$1,933</b>	<b>\$2,101</b>	<b>\$2,304</b>	<b>\$2,361</b>	<b>\$2,319</b>
<b>Benefits</b>	<b>\$495</b>	<b>\$552</b>	<b>\$608</b>	<b>\$719</b>	<b>\$719</b>	<b>\$908</b>	<b>\$1,057</b>	<b>\$1,132</b>	<b>\$1,114</b>

During the above timeframe, there were minor fluctuations to the number of the Bureau's budgeted positions, but individual personnel costs have increased considerably. Personnel costs are approximately 60 percent of the Bureau's budget, so as the Bureau downsizes staff, it will be helpful in reducing costs.<sup>3</sup> Nonetheless, the fees need to be raised to ensure the Bureau is sufficiently funded to conduct its core licensing and enforcement functions.

<sup>2</sup> Number in thousands

<sup>3</sup> See page four for more information on the Bureau downsizing staff

- Departmental Services Cost

In 2011-2012, the Bureau (then the office of Real Estate Appraisers<sup>4</sup>) was paying the Department of Real Estate (DRE) \$120,000 for administrative services provided by the DRE. The next year the Bureau was reorganized under the Department of Consumer Affairs (DCA), and the costs for administrative services have increased. In budget year 2017-18, the Bureau paid \$584,000 to DCA for administrative services.

- Bureau Surplus and Loan Repayment with Interest

The State of California (State) general fund borrowed \$1 million in 2003-04, \$2 million in 2004-5, and \$16.6 million in 2008-09 of Bureau surplus funds. In fiscal year 2009-10, the State began repaying the Bureau. This allowed the Bureau to receive loan proceeds with interest at the pooled money investment rate to offset the revenue decline caused by the appraiser population decrease. The Bureau would have increased fees years ago if it did not have the surplus fund to cover the operational costs.

- License Population Decline

In 2006-07 the license population peaked at 20,080.<sup>5</sup> After the housing crash in 2009, many appraisers did not renew their licenses as the demand for appraisals dropped. This resulted in the Bureau losing about half of its licensee population from its peak. This caused the Bureau's revenue to drop and would have resulted in immediate fee increases if the Bureau was not receiving loan repayment plus interest (the Bureau's surplus funds) from the State.

- Temporary Reduction Extension

In 2006, amidst a booming licensee population and thus booming budget, the Bureau temporarily reduced its issuance fee for trainees and residential appraisers to \$150 (from \$300) and certified appraisers to \$200 (from \$375) until 2014. In 2014, the Bureau was still receiving loan repayments from the state and extended the temporary reduction until 2018-19 when the Bureau would need additional revenue. This resulted in four more years of subsidized lowered fees.

- Informal Technology (IT) Upgrades

Beginning in 2008, the Bureau (then Office) embarked on an IT system modernization effort to replace aging technology. The Bureau hired a contractor to build the infrastructure to conduct online functions at a cost of approximately \$2.47 million. After the system was constructed, the Bureau hired IT personnel to run the system. This resulted in increased security and improved

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<sup>4</sup> The Bureau of Real Estate Appraisers was the Office of Real Estate Appraisers until the Governor's reorganization plan two became effective in 2012.

<sup>5</sup> Current population level is 10,562 as of July 10, 2018.

user services such as online license renewal. Having to hire two IT programming staff increased the Bureau's operating costs by approximately \$300,000 annually.

- **Cost Saving Plan**

To delay a fee increase as long as possible and mitigate how much of an increase is required, the Bureau has engaged in a cost saving plan. In 2017-18, the Bureau did not fill 2.0 high salaried vacant positions and instead reclassified the positions for a savings of approximately \$316,000 annually. In 2019/20, the Bureau plans to not fill 4.0 positions, resulting in approximately \$527,000 of projected future savings annually. The Bureau has determined it can adequately perform all functions without these positions.

In November 2018 the Bureau is moving to a new office space to save \$41,000 on rent per year. The Bureau also froze non-mission critical employee travel.

The Bureau has maintained operating expenses (supplies, etc.) at or below inflation levels for years. As the table below reflects, the consistent level in the Bureau's Operating Expenses & Equipment (OE&E) costs are due to the Bureau proactively searching for less expensive services and negotiating good rates.

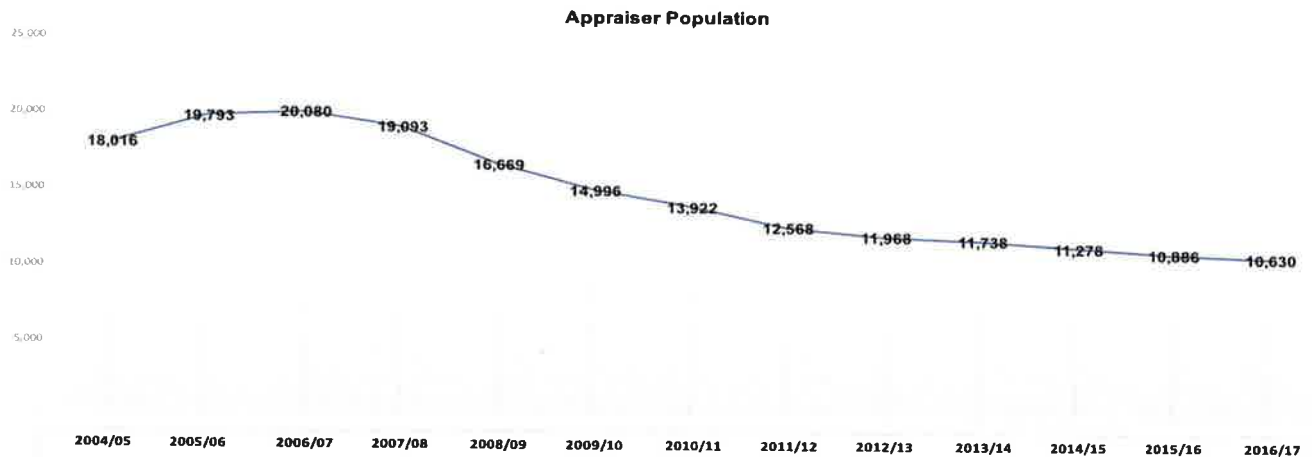
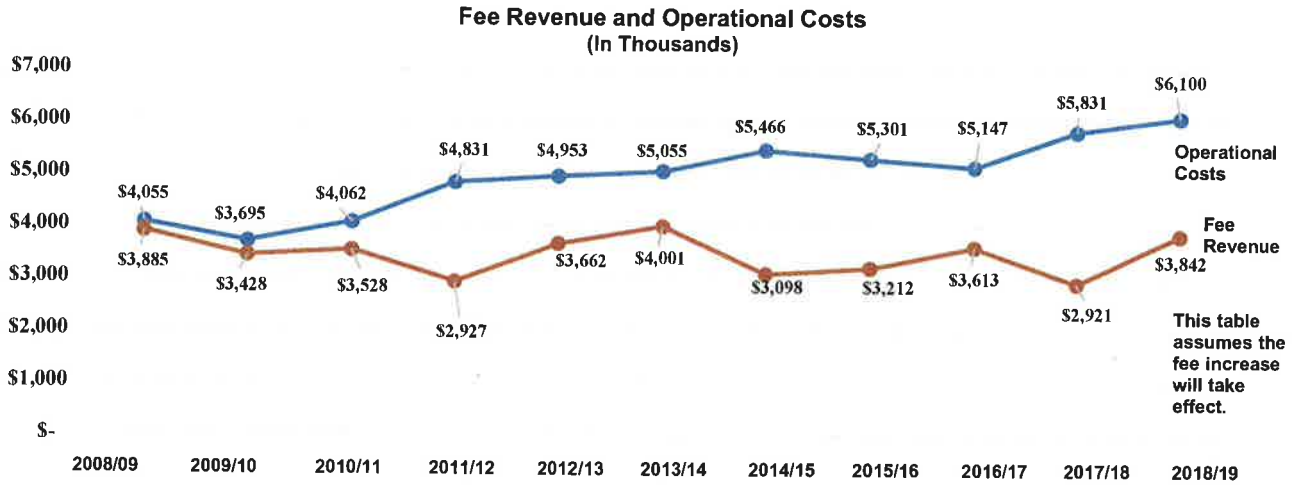
Year	99/00	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08
OE&E	\$1,655	\$1,075	\$1,125	\$1,609	\$1,464	\$929	\$1,026	\$1,220	\$1,443
Year	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
OE&E	\$1,590	\$1,276	\$1,452	\$1,845	\$1,979	\$2,010	\$2,105	\$1,808	\$1,715

The Bureau is executing a cost saving plan and must now look to fee increases to balance the Bureau's budget.

- **Fee Increase is Needed**

The Bureau will no longer receive state loan repayments and thus must balance its budget without the loan proceeds. The Bureau is projected to have a 8.8 month reserve at the end of 2018-19, but the Bureau is projected to have 3.6 months in reserve 2019-20 without a fee increase. This means the Bureau will have to increase fees in order to stay solvent beyond 2019-20. The Bureau's anticipated expenses in 2019-20 are \$5.7 million and the anticipated revenue in 2019-20 are \$3.5 million. To achieve a structurally balanced fund, fees will be increased. See page six or the proposed regulation for the amount of fee increase.

## Illustrative Charts



Loans to General Fund (GF) and Repayment Schedule with Interest			
Fiscal Year	Loan/Transfer	Amount	Interest
2002/03	To GF	\$1,000,000	
2003/04	To GF	\$2,000,000	
2008/09	To GF	\$16,600,000	
Total Loaned	To General Fund	\$19,600,000	
2009/10	Payment from GF	\$(5,000,000)	\$217,000
2013/14	Payment from GF	\$(8,100,000)	\$1,151,000
2015/16	Payment from GF	\$(3,000,000)	\$615,000
2016/17	Payment from GF	\$(3,000,000)	\$598,000
2018/19 Projected	Payment from GF	\$(500,000)	
Total Payment of Loaned Surplus		\$(19,600,000)	
Interest Earned on Loaned Surplus			\$2,581,000

Existing California Code of Regulations section 3582 sets the fees applicants, licensees, registrants (as Appraisal Management Companies, or AMCs), and course providers pay the Bureau to process applications or provide services. This proposal would increase the fees applicants, licensees, registrants, and course providers pay the Bureau to process applications or provide services. Specifically, the fees would be modified as follows:

1. Application review fee would increase from \$150 to \$400. This fee previously just stated “all classification new, renewal, upgrades, and Certificate of Registration.” This includes reciprocals and reinstatements as the Bureau currently charges the fee as those applications must be reviewed. However, the regulation does not specifically list them. The Bureau is proposing to be more specific in this rulemaking by listing them. The fee is necessary to cover Bureau staff time reviewing the application.
2. Issuance of original or renewal fee would increase as follows:
  - a. Trainee \$300 to \$450;
  - b. Residential \$300 to \$450;
  - c. Certified \$375 to \$525; and
  - d. AMCs \$1,600 to \$4,600.<sup>6</sup>
3. The upgrade fee would be eliminated. Instead the applicant would be charged the issuance of original or renewal fee as they would be receiving an original license for the upgrade for a two year period. Therefore, the increased fee depends on whether the applicant is upgrading to a residential or certified level. Below is a breakdown of each possible upgrade and the increased cost:
  - a. Trainee to residential from \$75 to \$450
  - b. Trainee to certified from \$75 to \$525
  - c. Residential to certified from \$75 to \$525<sup>7</sup>
4. Temporary practice permit fee is increasing from \$80 to \$250. The fee is necessary to cover Bureau staff time reviewing the application.
5. Petition for equivalency is increasing from \$45 to \$55. The fee is necessary to cover Bureau staff time reviewing the application.
6. The Bureau is changing the fee structure for basic and continuing course providers. Currently, basic and continuing education is separated. Basic education is broken down into an application review fee and a course review fee. The course review fee is further broken down into different fees depending on how many courses are submitted for approval. The Bureau proposes to keep an application review fee and increase it from \$150 to \$300 to cover Bureau staff time reviewing the application. The Bureau proposes to eliminate the differential fees depending on how many courses are submitted and instead charge a flat fee per course of \$200. This will cause 1-5 course fee to decrease from \$350 to \$200, the 6 or more course fee to decrease from \$250 to \$200. The continuing education courses are broken into an application review fee and a course review fee. The course review fee is further broken down into different fees depending on

<sup>6</sup> These fees are charged after the application has been reviewed and the license or registration is ready to be issued. The fee covers the Bureau's costs to regulate the licensee or registrant including enforcement costs for the two year license or registration period.

<sup>7</sup> These fees are charged after the application has been reviewed and the license is ready to be issued. The fee covers the Bureau's costs to regulate the licensee including enforcement costs for the two year license period.

the course hours. The Bureau proposes to keep an application review fee and increase it from \$150 to \$300 to cover Bureau staff time reviewing the application. The Bureau also proposes to change the per hour fee to a flat fee. It will result in an increase the course review fee on courses up to 14 hours from \$50 to \$200, courses 15-29 hours from \$100 to \$200, and each additional 14 hour segment or portion thereof with an additional \$50 to \$200 regardless of the hours.

7. Several other fees are being reorganized without an increase or decrease to the fees.

Business and Professions Code section 11400 authorizes initial application fees. The initial application fees include the application review (\$400), background (\$70), child support review (\$10), and federal registry fee (as prescribed by the ASC). Business and Professions Code section 11408 requires applicants and licensees to pay federal registry fees (as prescribed by the ASC) and state registry processing fees (\$25) as part of licensing fees. Business and Professions Code section 11343 allows the DOJ to charge a fee sufficient to cover the cost of processing the fingerprint request (\$70). Family Code section 17520 allows the Bureau to be reimbursed for the costs incurred in administering the child support enforcement program (\$70). These Business and Professions Code sections provide the authority to modify California Code of Regulations section 3582(b)(1).

Business and Professions Code sections 11404 and 11405 limit the issuance of original or renewal fees to a maximum of \$450 for residential and trainee licenses and \$525 for certified licenses. Business and Professions Code section 11406.5 allows the Bureau to establish fees to be imposed on AMCs sufficient to cover costs in to license and regulate AMCs. This includes the issuance of original or renewal fee for new, renewal, upgrade, reciprocal, reinstatement, Certificate of Registration and Certificate of Registration renewal. These Business and Professions Code sections provide the authority to modify California Code of Regulations section 3582(b)(2).

Business and Professions Code section 11352 allows the Bureau to adopt regulations governing the process and procedure of applying for a temporary practice permit. This Business and Professions Code section provides the authority to modify California Code of Regulations section 3582(b)(5).

Business and Professions Code section 11406 allows the Bureau to establish fees on course providers for approval of basic and continuing education courses or their equivalent sufficient to cover costs incurred in processing the applications. This Business and Professions Code section provides the authority to modify California Code of Regulations section 3582(b)(6) and (7).

### **ANTICIPATED BENEFITS**

The Bureau will be assessing fees sufficient to cover operational costs incurred by administering the program to ensure continued protection of the public. The benefits of the increase in fees ensures the Bureau has sufficient funds to continue issuing licenses and registrations to qualified

applicants, denying unqualified applicants, and seeking discipline to those licensees and registrants who violate Bureau laws and regulations.

### **CONSISTENCY OR COMPATIBILITY WITH EXISTING STATE REGULATIONS**

During the process of developing these regulations, the Bureau has conducted a search of any similar regulations on this topic and has determined that there is no reasonable interpretation of any state regulation that is inconsistent or incompatible with the proposed action.

### **FISCAL IMPACT ESTIMATES**

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: It is estimated the proposed fee increase will result in an increase in Bureau revenues by approximately \$2.62 million beginning in 2019-20 and thereafter.

Nondiscretionary Costs/Savings to Local Agencies: None

Cost to, or mandate imposed on, any Local Agency or School District for Which Government Code Section 17500-17630 Require Reimbursement: None

Business Impact: The impact to AMCs and course providers will be minimal as the increase is absorbable. The impact on licensees is more significant, but likely absorbable to all who engage in real estate appraisals. The Bureau estimates one and a half percent of licensees do not actively engage in the appraisal business. Those licensees may not renew their license due to the license fee increase. The Bureau initially determines there will not be a significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Cost Impact on Representative Private Person or Business: Licensees and Registrants will be subject to an increase of \$250 for the Application fee starting in fiscal year 2019-20. Licensees and Registrants will be subject to an increase of \$150-\$3,000 for the issuance fee starting in 2019-20. Over a 10-year period, renewal licensees will be subject to an increase of \$1,250 for the Application fee and an increase of \$750-\$15,000 for the issuance fee. Temporary Practice Permit applicants will be subject to an increase of \$155 per year starting fiscal year 2019-20. Over a 10-Year period, Temporary Practice Permit applicants will be subject to an increase of \$1550.

Licensees who Petition for Equivalency will be subjected to an increase of \$10 per course starting fiscal year 2019-20. Course Provider Application Review applicants will be subject to an increase of \$150 per a four-year cycle starting in 2019-20. Course Review applicants will be subject to \$50 increase per a four-year cycle starting in 2019-20. Over a 10-year period, education applications will be subject to an increase of \$100 for Petition for Equivalency, \$300 for the Course Provider application fee and \$100 for the Course Review fee. However, the



impact will likely be absorbable to all except licensees who do not actively participate in the appraisal business.

Effect on Housing Costs: None

Effect on Small Businesses: The effect on small businesses will be minimal as the increase is absorbable.

## **RESULTS OF THE ECONOMIC IMPACT ASSESSMENT**

Impact on Jobs/New Businesses: It will likely not create jobs or business or eliminate jobs or businesses within the State of California because the fee increase is not significant enough to impact jobs and businesses. Working appraisers will still renew their licenses, those interested in becoming an appraiser will still enter the profession, AMCs will still renew their registrations, and course providers will still offer courses. The Bureau does not anticipate any significant reduction or expansion of new businesses.

Benefits: The Bureau will be assessing fees sufficient to cover operational costs incurred by administering the program to ensure continued protection of the public.

Occupations/Businesses Impacted: Real Estate Appraisers, Appraisal Management Companies, and Educational Institutions.

Reporting Requirements: None.

Comparable Federal Regulations: None.

Benefits of the Regulation to the Health and Welfare of California Residents, Worker Safety, and the State's Environment: The benefit to the Health and Welfare of California Residents, Worker Safety, or the State's Environment is an adequately funded Bureau to ensure the public is protected. The Bureau will be able to continue issuing licenses and registrations to qualified applicants, denying unqualified applicants, and seeking discipline to those licensees and registrants who violate Bureau laws and regulations.

## **CONSIDERATION OF ALTERNATIVES**

The Bureau must determine that no reasonable alternative considered by the Bureau or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which the action is proposed, would be as effective and less burdensome to affected private persons than the proposed action, or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

Any interested person may present statements or arguments orally or in writing relevant to the above determinations at the above-mentioned hearing.

### **INITIAL STATEMENT OF REASONS AND INFORMATION**

The Bureau has prepared an initial statement of reasons which contains the purpose, rationale, and necessity for the proposed action.

The proposed text, this notice, the statement of reasons, and any other relevant documents are on the Bureau's website at [www.brea.ca.gov](http://www.brea.ca.gov). Click the "Laws & Enforcement" tab at the top of the page. Under the heading "Rulemaking Notifications" find the documents associated with this rulemaking subject: "Fees."

### **AVAILABILITY AND LOCATON OF THE STATEMENT OF REASONS, TEXT OF PROPOSED REGULATION AND RULEMAKING FILE**

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below. As of the date this notice is published in the Notice of Register, the rulemaking file consists of this notice, the proposed text of the regulation and the initial statement of reasons. Copies may be obtained by contacting the person named below or by accessing the website as provided above.

### **AVAILABILITY OF CHANGED OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Bureau may adopt the proposed regulation substantially, as described in this notice. If the Bureau makes modifications which are sufficiently related to the originally proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days before the Bureau adopts the regulations as revised. Please send requests for copies of any modified regulation to the attention of the contact person named below. The Bureau will accept written comments on the modified regulation for 15 days after the date on which they are made available.

### **AVAILABILITY OF THE FINAL STATEMENT OF REASONS**

Upon its completion, copies of the Final Statement of Reasons may be obtained by contacting the person named below.

## **CONTACT PERSON**

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Kyle Muteff, Legal Counsel  
3075 Prospect Park Drive, Ste. 190,  
Rancho Cordova, CA 95670  
Phone: 916-341-6126  
FAX: 916-464-0131  
[kyle.muteff@brea.ca.gov](mailto:kyle.muteff@brea.ca.gov)

The backup person is:  
Mary Ann Lopez  
3075 Prospect Park Drive, Ste. 190,  
Rancho Cordova, CA 95670  
Phone: 916-440-7876  
FAX: 916-464-0131  
[maryann.lopez@brea.ca.gov](mailto:maryann.lopez@brea.ca.gov)

**Bureau of Real Estate Appraisers  
Initial Statement of Reasons**

**Hearing Date: June 14, 2019**

**Subject Matter of Proposed Regulations: Fees**

**Sections Affected:** Amend Section 3582 of Title 10 of the California Code of Regulations

**Problem Being Addressed**

The Bureau's fees are insufficient to continue Bureau operations. The Bureau has been operating on fees largely established in the 1990's without increases for inflation or the growing overhead costs. The Bureau has maintained a similar level of staffing since its inception in 1994, but departmental administrative services costs and personnel services costs have increased significantly. There has also been a sharp decline in the licensed appraiser populations since 2006-07, which has resulted in lower fee revenue. In addition, repayments of general fund loans are scheduled to end in the 2018-19 fiscal year. The Bureau relied on these repayments for years to subsidize the lower fee revenue. The Bureau has also taken substantial cost savings measures, including downsizing staff, relocating to a less expensive location, restricting travel, and switching to lower cost providers of services.<sup>1</sup> However, even with these cost saving measures, a fee increase is needed to capture the cost to provide Bureau services and maintain protection of the public.<sup>2</sup>

The following describes the increases in costs and other events that have led to the Bureau's need to increase fees.

- Personnel Costs

Personnel Costs (salary and benefits) have increased by approximately 64 percent since 2000-01 as depicted in the table below. This increase is not unique to the Bureau as personnel costs are rising for all state agencies.

Year <sup>3</sup>	00/01	01/02	02/03	03/04	04/05	05/06	06/07	07/08
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Benefits	\$323	\$291	\$315	\$387	\$425	\$429	\$470	\$466

<sup>1</sup> The total annual expenses and revenues for the Bureau are included in attachments to the form 399.

<sup>2</sup> Business and Professions Code section 11310.1 states: "Protection of the public shall be the highest priority for the Office of Real Estate Appraisers in exercising its licensing, regulatory, and disciplinary functions. Whenever the protection of the public is inconsistent with other interests sought to be promoted, the protection of the public shall be paramount."

<sup>3</sup> Number in thousands

Year	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
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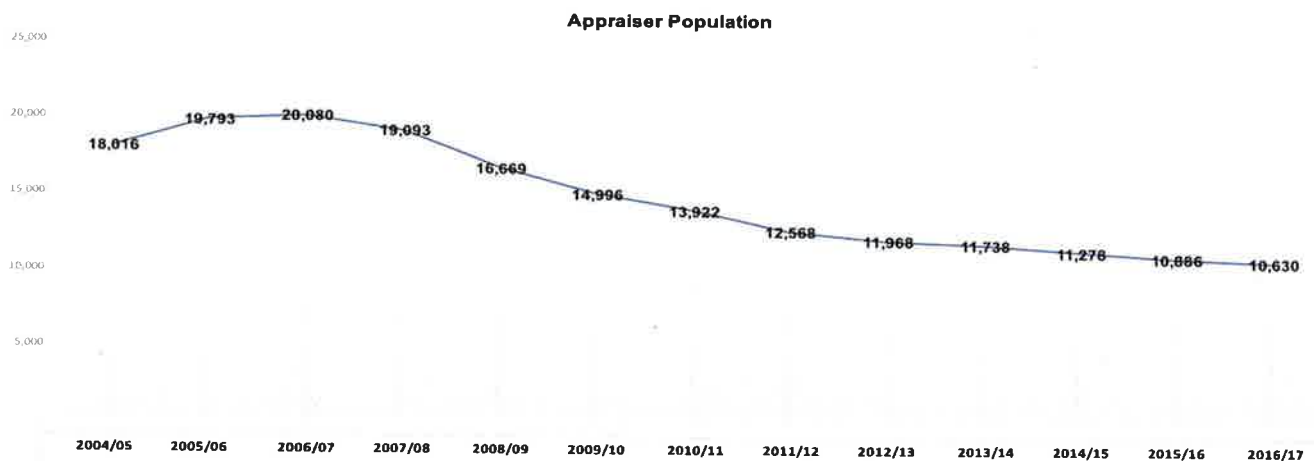
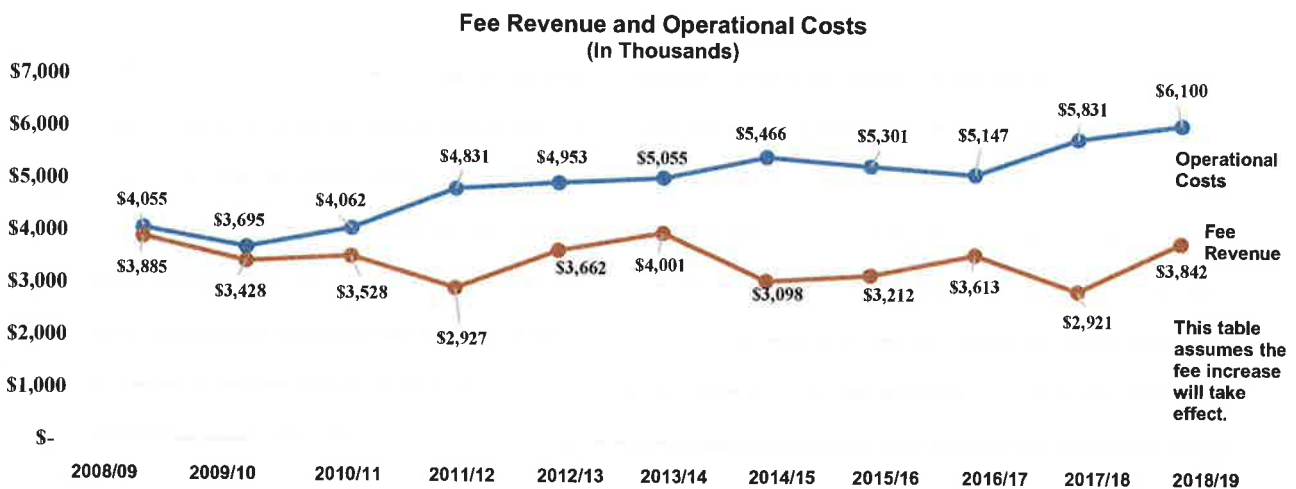
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Year	08/09	09/10	10/11	11/12	12/13	13/14	14/15	15/16	16/17
OE&E	\$1,590	\$1,276	\$1,452	\$1,845	\$1,979	\$2,010	\$2,105	\$1,808	\$1,715

The Bureau is executing a cost saving plan and must now look to fee increases to balance the Bureau's budget.

- Fee Increase is Needed

The Bureau will no longer receive state loan repayments and thus must balance its budget without the loan proceeds. The Bureau is projected to have a 8.8 month reserve at the end of 2018-19, but the Bureau is projected to have 3.6 months in reserve 2019-20 without a fee increase. This means the Bureau will have to increase fees in order to stay solvent beyond 2019-20. The Bureau's annual expenses are in 2019-20, \$5,741,000, but in 2019-20 and beyond the anticipated annual revenues from fees will be \$3,543,000. In order to make up the difference between the costs and revenue, and secure a healthy reserve, fees will be increased. See page six or the proposed regulation for the amount of fee increase.

### Illustrative Charts



<b>Loans to General Fund (GF) and Repayment Schedule with Interest</b>			
Fiscal Year	Loan/Transfer	Amount	Interest
2002/03	To GF	\$1,000,000	
2003/04	To GF	\$2,000,000	
2008/09	To GF	\$16,600,000	
Total Loaned	To General Fund	\$19,600,000	
2009/10	Payment from GF	\$(5,000,000)	\$217,000
2013/14	Payment from GF	\$(8,100,000)	\$1,151,000
2015/16	Payment from GF	\$(3,000,000)	\$615,000
2016/17	Payment from GF	\$(3,000,000)	\$598,000
2018/19 Projected	Payment from GF	\$(500,000)	
Total Payment of Loaned Surplus		\$(19,600,000)	
Interest Earned on Loaned Surplus			\$2,581,000

### **Specific Purpose of Each Adoption, Amendment, or Repeal**

#### **1. Initial Application Fees**

The Bureau proposes to reorganize its fee chart to be more user friendly. As such, the Bureau proposes to include all initial application fees within subdivision (b)(1). These fees will encompass all the fees charged by the Bureau to review and process an initial application. The Bureau proposes to move four existing fees (application review, background, child support review, and federal registry) under the initial application fees section.

##### **a. Application Review**

The Bureau proposes to amend this section to increase the fee from \$150 to \$400. Reviewing the application for approval takes a significant amount of time. First, Bureau staff needs to ensure the application is complete and has all required documents. If incomplete, a deficiency letter is sent to the applicant informing the applicant why the application is deficient and how to remedy the deficiency. Once complete, a file is opened and it is assigned to appropriate staff members to evaluate whether the minimum requirements for the application type are met. This includes evaluating whether the applicant met the education, experience, and examination requirements. If the applicant does not satisfy the applicable standards, a letter is sent explaining the deficiency and how it can be cured. When it is determined the applicant meets the qualifications, the license or certification issued.

The fee needs to be increased because the application review process is time intensive. It costs the Bureau \$2,052,933 in staff time per year to review approximately 5,100 applications.<sup>7</sup> This

<sup>7</sup> The Bureau utilizes a two-year renewal cycle. In 2016 and 2017 (one complete renewal cycle) there were 10,630 original or renewal applications. The Bureau is anticipating a two and a half percent reduction in the licensing population. Therefore, the Bureau is utilizing a yearly estimate of 5,182 original or renewal applications per year and the Bureau is rounding to 5,000 for simplicity. The Bureau is then adding 100 for the AMC original or renewal applications per year which is projected to remain fairly constant. The Bureau is basing its budget on an additional projected licensee (not AMC) decrease of two percent in fiscal year 2018-19, an a one and a half percent decrease in fiscal year 2019-20.



amounts to \$403 per application. For simplicity, the Bureau has rounded that number to \$400 per application.<sup>8</sup>

The Bureau proposes to include new, renewal, upgrade, reciprocal, reinstatement, certificate of registration, and certificate of registration renewal applications in the application review fee. This is because each of these applications undergoes the same application review to ensure that the applicant meets applicable standards. The Bureau has been collecting the application review fee for reciprocal, reinstatement, and certificate of registration renewal applications as those applications must be reviewed like all applications. The current fee simply states: "Application Review (all classifications new, renewal, upgrades, and certificate of registration)." The Bureau is being more specific by listing the applications covered by the application review fee.

#### **b. Reorganize Applications Fees**

The Bureau is proposing to reorganize section 3582 to incorporate all application fees under 1) Initial Application Fees; thus, there is no increase or decrease in the following fees being proposed:

- Background Investigation Fees
- Child Support Review Fees
- Federal Registry Fees

#### **2. Issuance of Original or Renewal Fee**

The Bureau proposes to change the title from "Issuance" to "Issuance of Original or Renewal" as that is more aligned with the statutory language and it accurately describes the fee. The Bureau proposes to increase the fee to the statutory maximum for licensees.<sup>9</sup> The fee covers the cost to enforce the Real Estate Appraisers' Licensing and Certification Law. Specifically, it costs the Bureau \$2,927,276 per year to evaluate subsequent arrest notifications and complaints, develop investigations, and seek actions against appraisers when appropriate.<sup>10</sup> The Bureau is including new, renewals, upgrade, reciprocal, reinstatement, Certificate of Registration, and Certificate of Registration renewals with this fee because each of these authorizations grant a two-year license or registration in which enforcement may be necessary. The Bureau needs to collect its costs to enforce its program. The Bureau is breaking out the license fee<sup>11</sup> and the AMC registration fee as there is a different cost to enforce Bureau law for appraiser licensees versus AMC registrants. Typically, AMC cases are more complex and cost more to investigate and litigate. Therefore, the

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<sup>8</sup> The Bureau rounded down on license applications and rounded up on the AMC applications. These minor rounding numbers make it easier for applicants and do not affect the Bureau's overall budget.

<sup>9</sup> Business and Professions Code sections 11404 and 11405 limit the original or renewal fee to \$450 or \$525 depending on the license type.

<sup>10</sup> This covers both Bureau staff costs and the costs billed to the Bureau from the Attorney General representing the Bureau in litigation.

<sup>11</sup> Trainee \$300 to \$450, Residential \$300 to \$450, Certified \$375 to \$525, and AMC registration \$1,600 to \$4,600.

Bureau developed a cost to enforce its laws for appraiser licensees and AMC registrants separately.<sup>12</sup>

The Bureau estimates a two and a half percent reduction in the number of original or renewal applications next fiscal year to approximately 5,182.<sup>13</sup> This reduction is due to an anticipated continued one to one and a half percent decline in the licensee population and a one to one and a half percent decline as a result of the fee increase on those appraisers who hold a license, but rarely, if ever, appraise real property. In the past two years, the Bureau's licensee population has decreased by approximately one to one and a half percent each year. The Bureau anticipates this trend will continue at the same rate. The Bureau also anticipates an additional one to one and a half percent decline as a result of the fee increase. This is because there are individuals who are not actively appraising, but renew their license anyway. It is unknown how many individuals are in this situation, but some of those individuals may choose to not renew their license under the increase fee schedule. This will result in less issuance of original and renewal applications being processed. Thus, the Bureau needs to collect \$585<sup>14</sup> from each issuance of original and renewal application to recover enforcement costs. However, the statutory maximum is \$450 or \$525 depending on the license type. Therefore, the Bureau proposes to increase the fee to the statutory maximum for each license type.

The Bureau proposes to increase the fee to \$4,600 for AMC registration. It costs the Bureau \$457,595 per year to evaluate subsequent arrest notifications and complaints, develop investigations, and seek actions against AMCs when appropriate.<sup>15</sup> On average, there have been 119 original or renewal applications.<sup>16</sup> The Bureau expects this number to drop slightly as the Bureau has seen a very recent trend of market consolidation. It is unclear if this trend will continue. To be conservative, the Bureau is rounding the average down to 100 to account for possible consolidation. Thus, it costs the Bureau \$4,576 per year to recover its enforcement costs. The Bureau proposes to round this number to \$4,600 for each application. There is no statutory maximum for AMCs.<sup>17</sup>

### **3. Elimination of Issuance Fee for Upgrades**

The Bureau proposes to eliminate the issuance fee for upgrade applications and integrate that fee into the original or renewal fee. When an individual upgrades their license, they receive a new expiration date for the full two-year period. Thus, the applicant should be responsible for the two-year enforcement cost.

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<sup>12</sup> See next paragraphs for the cost calculations.

<sup>13</sup> The Bureau utilizes a two-year renewal cycle. In 2016 and 2017 (one complete renewal cycle) there were 10,630 original or renewal applications. The Bureau is anticipating a two and a half percent reduction in the licensing population. Therefore, the Bureau is utilizing a yearly estimate of 5,182 original or renewal license applications per year and the Bureau is rounding to 5,000 for simplicity. The Bureau is adding 100 to account for the issuance of original or renewal AMC applications per year.

<sup>14</sup> \$2,927,276 divided by 5,000 licensees equals \$585.

<sup>15</sup> This is a point in time determination. The Bureau did its best to determine Bureau costs based on the most recent years costs.

<sup>16</sup> There were 148 in fiscal year 2015-16 and 91 in fiscal year 2016-17. As it is a two year renewal cycle, the numbers must be averaged to get a yearly estimate.

<sup>17</sup> Business and Professions Code section 11406.5.

#### **4. Temporary Practice Permit**

The Bureau receives Temporary Practice Permit (TPP) applications from licensed out-of-state appraisers who need to conduct limited appraisal activity in California. The process begins by verifying the application is complete. If it is not complete, a deficiency letter is sent to the applicant. If complete, the application is evaluated to determine if the applicant has a valid license in another state. If licensed in another state, the Bureau needs to determine if the applicant has been disciplined in that state which warrants TPP denial. There is a strict five-day turnaround requirement by the Appraisal Subcommittee (ASC).<sup>18</sup> Thus, the Bureau must devote more time to TPP applications to ensure this timeline is met. Furthermore, the Bureau is also obligated to grant one extension without charging an additional fee.<sup>19</sup> Therefore, it costs the Bureau \$71,134 in staff time to issue approximately 300 TPPs each year.<sup>20</sup> This results in a necessary fee of \$237 per TPP application to recover Bureau costs. The Bureau proposes to round the fee to \$235.

#### **5. Remove Distinction Between Basic and Continuing Education Fees**

The Bureau proposes to remove the distinction between basic and continuing education fees as it consumes a similar amount of time to review basic and continuing providers and their courses. Regardless if the course provider is delivering basic or continuing education, the Bureau imposes similar standards for both providers.<sup>21</sup> Thus, there is no need to set two different fee schedules. Therefore, the Bureau proposes to eliminate the distinction between the two types of providers and courses.

#### **6. Course Provider Application Review Fee**

The Bureau proposes to increase the course provider application review fee from \$150<sup>22</sup> to \$300. This fee consists of reviewing the application for completeness and sending a deficiency letter if incomplete. After it is complete, a file is opened and the Bureau staff evaluates the application. This includes reviewing provider policy statements. If the provider meets Bureau standards, the provider is approved. It costs the Bureau \$6,193 in staff time per year to review course provider applications. The Bureau receives approximately 20 applications per year.<sup>23</sup> The Bureau anticipates this number will remain fairly constant. Thus, it costs the Bureau \$310 per application which the Bureau proposes to round to \$300 per application.

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<sup>18</sup> The regulations governing temporary practice must meet Appraisal Subcommittee requirements. (Bus. & Prof. Code, § 11352.) ASC Policy Statement Two provides "Host State agencies must: ... b. issue temporary practice permits within five business days of receipt of a completed application, or notify the applicant and document the file as to the circumstances justifying delay or other action;"

<sup>19</sup> See ASC Policy Statement Two "Host State agencies may not: ... c. charge a temporary practice permit fee exceeding \$250, including one extension fee;"

<sup>20</sup> In 2016/2017, the Bureau issued 323 TPPs and anticipates a two and a half percent decrease in 2017/18 to 315. The Bureau is rounding that number to 300 for simplicity.

<sup>21</sup> See Cal. Code Regs., tit. 10, § 3662. Basic education has three additional requirements, but those requirements do not take a considerable amount of Bureau staff time to ensure they are met.

<sup>22</sup> Currently, both basic and continuing education provider fees are set at \$150.

<sup>23</sup> In 2017, the Bureau received 18 applications. Providers are on a four-year renewal cycle and there are 75 providers. Thus, the Bureau is using 20 provider applications a year as an estimated average.

## **7. Course Review Fee**

The Bureau proposes to change the course review fee to \$200. Currently, the basic education course fee is \$350 and the continuing education course fee depends on the amount of hours.<sup>24</sup> The Bureau prefers a single fixed fee as it typically takes about the same amount of time to review a course with 14 hours as it does a course with 30 hours. This is because the minimum requirements for approval are not different. The real difference is the length of the syllabus which does not constitute much of a difference in review time. Thus, there is no need to have different amounts for different hours. It also takes a similar amount of time to review a course regardless of how many courses are submitted at the same time. It costs the Bureau \$117,516 in staff time per year to review course applications. The Bureau received 579 applications in fiscal year 2016-17. The Bureau anticipates this number will remain fairly constant. Thus, it costs the Bureau \$202 per application which the Bureau proposes to round to \$200 per application.

## **8. Petition for Equivalency**

The Bureau proposes to increase the petition for equivalency application review fee from \$45 to \$55. An applicant may submit a petition for equivalency credit for those courses which have not been accredited by the Bureau, but which satisfy the requirements for credit. This requires Bureau staff to perform research on the course work to determine if it meets the minimum requirements. Often, the Bureau will receive multiple applications regarding the same course. Thus, the Bureau can keep the cost per application relatively low. It costs the Bureau \$6,193 in staff time per year to evaluate such applications. The Bureau receives 108 applications per year. Thus, it costs the Bureau \$57 per application which the Bureau proposes to round to \$55 per application.

## **9. Miscellaneous Fees**

The Bureau proposes to eliminate the “certificate of good standing” fee. The Bureau no longer receives such requests since it publishes the status of all licensees on its website. The Bureau also proposes to eliminate the “Federal and State Laws & Regulations Course Materials Package” fee. Again, the Bureau no longer receives such requests since it publishes the laws and regulations on its website.

## **Underlying Data**

The Bureau relied on the Governor’s Budget 2017-18 Fund Condition. The underlying data is included as an attachment to the economic impact statement form 399.

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<sup>24</sup> Currently, the course review fee is \$50 for up to 14 hours, \$100 for 15 to 29 hours, and \$50 for each additional 14 hour segment or portion thereof.

### **Business Impact**

The impact to AMCs and course providers will be minimal as the increase is absorbable. The impact on licensees is more significant, but likely absorbable to all others who engage in real estate appraisal. The Bureau estimates one and a half percent of licensees hold a license, but do not actively participate in the appraisal business. Those licensees may not renew their license due to the license fee increase.

### **Economic Impact Assessment**

The regulatory proposal will have the following effects:

- It will not create jobs or eliminate jobs within the State of California because the fee increase is not significant enough to cause working appraisers to not renew, those interested in the profession to not enter the profession, AMCs to stop their business activities, or course providers from offering courses.
- It will not create new businesses or eliminate existing businesses within the State of California because the fee increase is not likely to cause companies to close.
- It will not affect the expansion of businesses currently doing business within the State of California because the fee increase is not significant enough to affect the expansion of business.
- The benefit to the Health and Welfare of California Residents, Worker Safety, or the State's Environment is an adequately funded Bureau to ensure the public is protected.

### **Anticipated Benefits**

- The Bureau will be assessing fees sufficient to cover operational costs incurred by administering the program to ensure continued protection of the public. The benefits of the increase in fees ensures the Bureau has sufficient funds to continue issuing licenses and registrations to qualified applicants, denying unqualified applicants, and seeking discipline to those licensees and registrants who violate Bureau laws and regulations.

### **Specific Technologies or Equipment**

This regulation does not mandate the use of specific technologies or equipment.

### **Consideration of Alternatives**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be either more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to the affected parties than the proposed regulation.

The Bureau considered and rejected the alternative of not amending the regulation and raising fees. The Bureau rejected this alternative because it would cause the Bureau to become insolvent in 2019-20, and the Bureau could not administer and enforce the law as it is required to do.

Proposed Text  
California Code of Regulations  
Title 10, Chapter 6.5, Article 5

The text below represents existing language modified to show proposed changes. Proposed deletions are in ~~strike through~~. Proposed additions are in underline.

**§ 3582. Fee Schedule.**

(a) Fees are scheduled pursuant to Sections 11400 through 11408, Business and Professions Code.

(b) In addition to (a) above, the following is a schedule of additional fees:

1) <u>Initial Application Fees</u>	
<u>Application Review fee for new, renewal, upgrade, reciprocal, reinstatement, Certificate of Registration, and Certificate of Registration renewal applications</u>	<u>\$400</u>
<u>Background fee for new, reciprocal, reinstatement, and controlling person applications</u>	<u>\$70</u>
<u>Child Support Review fee for new, reciprocal, reinstatement, and controlling person applications</u>	<u>\$10</u>
<u>Federal Registry fee for new, trainee upgrade, renewal, reciprocal, and reinstatement applications</u>	
<u>Federal – Appraiser</u>	<u>(as prescribed by the ASC)</u>
<u>Federal – Appraisal Management Company</u>	<u>(as prescribed by the ASC)</u>
<u>State Processing</u>	<u>\$25</u>
1) <u>Application Review (all classifications new, renewal, upgrades and Certificate of Registration)</u>	<u>\$150</u>
2) <u>Issuance of Original or Renewal fee-Fees for (new and renewals, upgrade, reciprocal, reinstatement, Certificate of Registration, and Certificate of Registration renewal applications)</u>	
<u>Trainee Level</u>	<u>\$300450</u>
<u>Residential Level</u>	<u>\$300450</u>
<u>Certified Levels</u>	<u>\$375525</u>
<u>Appraisal Management Company Certificate of Registration</u>	<u>\$1,6004,600</u>
3) <u>Issuance Fees (upgrades)</u>	
<u>To Certified Levels</u>	<u>\$75</u>
43) <u>Late Renewal Fee (all license levels and Certificate of Registration)</u>	
<u>0 - less than 12 months</u>	<u>\$125</u>
5) <u>Background Investigation Fees</u>	<u>\$70</u>
64) <u>Child Support Review Fee</u>	<u>\$10</u>
<u>Reinstatement After Child Support Suspension</u>	<u>\$140</u>
7) <u>Federal Registry Fees (every two years)</u>	
<u>Federal – Appraiser</u>	<u>(as prescribed by the ASC)</u>
<u>Federal – Appraisal Management Company</u>	<u>(as prescribed by the ASC)</u>
<u>State Processing</u>	<u>\$25</u>
85) <u>Temporary Practice Permit</u>	<u>\$80235</u>
96) <u>Petition for Equivalency (per course)</u>	<u>\$4555</u>
107) <u>Basic Education Provider Fees</u>	
<u>Course Provider Application Review Fee</u>	<u>\$150300 per submission</u>
<u>Course Review Fee</u>	<u>\$350200 per course</u>
<u>Multiple Courses Review Fee (Submitted at same time)</u>	<u>\$350 per course</u>
<u>1 to 5 courses</u>	<u>\$250 per course for each course</u>
<u>6 or more courses</u>	<u>over 5 courses</u>

<del>11) Continuing Education Provider Fees</del>	
<del>— Course Provider Application Review Fee</del>	<del>\$150</del>
<del>— Course Review Fee</del>	
<del>— Up to 14 hours</del>	<del>\$50</del>
<del>— 15 to 29 hours</del>	<del>\$100</del>
<del>— Each additional 14 hour segment or portion thereof</del>	<del>\$50</del>
<del>128) Miscellaneous Fees:</del>	
<del>Certificate of Good Standing</del>	<del>\$15</del>
<del>Certification of Documents</del>	<del>\$5</del>
<del>Change of Name (Business or Personal)</del>	<del>\$10</del>
<del>Duplicate License</del>	<del>\$50 with certification of loss</del>
<del>Duplicate Admit Letter</del>	<del>\$10 with certification of loss</del>
<del>Dishonored Check Fee</del>	<del>\$25 plus collection costs</del>
<del>Federal and State Laws &amp; Regulations Course Materials Package</del>	<del>\$50 plus tax and postage</del>
<del>Laws &amp; Regulations Package</del>	<del>\$15 plus tax and postage</del>
<del>Letter of License History</del>	<del>\$40</del>
<del>Photocopy Costs</del>	<del>\$.10 each page plus postage</del>
<del>Retrieve File/Records from Archives</del>	<del>\$25</del>
<del>State Registry (available on disk only)</del>	
<del>Full List</del>	<del>\$55 plus tax and postage</del>
<del>Special Request</del>	<del>\$90 plus tax and postage</del>

(c) Notwithstanding any other provision, a license or Certificate of Registration shall be automatically suspended if payment of any fees is dishonored by the issuing institution for any reason. The license or Certificate of Registration shall remain suspended and shall not be renewed until receipt of all accumulated fees and penalties. Such a suspension shall be in addition to and not in place of any penalties imposed pursuant to this chapter and shall not relieve the licensee of his or her continuing education requirements.

(d) The fee to take an examination or reexamination for a license shall be set at an amount not to exceed the cost to the Bureau as determined by competitive bid. The Chief may provide that the applicant pay the fee directly to the examination provider.

Note: Authority cited: Sections 11313, 11343, 11350, 11352, 11400, 11401, ~~11402, 11403~~, 11404, 11405, 11406, 11406.5, 11408, and 11422, Business and Professions Code; and Section 17520 of the Family Code ~~Section 11350.6, Welfare and Institutions Code~~. Reference: Sections 11350, 11401, ~~11402, 11403~~, 11404, 11406 and 11406.5, Business and Professions Code.